



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

**March 9, 1989**

**Honorable John Whitmire  
Texas Senate  
P. O. Box 12068  
Austin, Texas 78711**

**LO-89-19**

**Dear: Senator Whitmire:**

You request our opinion regarding whether a particular individual is eligible to be appointed to the Texas Real Estate Commission. Section 5(c) of the Texas Real Estate License Act, article 6573a, V.T.C.S., provides, in pertinent part:

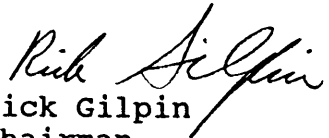
Appointments to the commission shall be made without regard to the race, creed, sex, religion, or national origin of the appointees. Each member of the commission shall be a citizen of Texas and a qualified voter. Six members shall have been engaged in the real estate brokerage business as licensed real estate brokers as their major occupations for at least five years next preceding their appointments. Three members must be representatives of the general public who are not licensed under this Act and who do not have, other than as consumers, a financial interest in the practice of a real estate broker or real estate salesman.

The individual in question holds a Texas real estate broker's license and has been the proprietor of and an instructor at a Commission-accredited real estate school for the past ten years. The inquiry thus turns upon whether operation of and instruction at such a school constitutes being "engaged in the real estate brokerage business as [a] licensed real estate broker as [her] major occupation." The answer to this question, in turn, depends upon whether operation of and instruction at the school is encompassed within the meaning of "the real estate brokerage business."

Section 2(2) of article 6573a defines "real estate broker" in terms of ten particular functions. See also, V.T.C.S. art. 6573a, § 2(3). Conducting a real estate school is not among the listed activities. Nevertheless, section 5(c) does not specifically refer to section 2. Rather, it uses the broader category of "engaged in the real estate brokerage business as licensed real estate brokers." The individual under consideration is a licensed real estate broker. We believe that the legislature's use of the term "real estate brokerage business" indicates an intent not necessarily to restrict that concept to the activities listed in section 2.

In our opinion, if the individual conducts an educational program that is accredited under section 7(f) and that includes "real estate brokerage" as a subject of study, and in addition, is a licensed real estate broker, that person may reasonably be said to be "engaged in the real estate brokerage business." We are supported in this conclusion by the language of section 5(c), which requires the appointment to the Commission of three other members of the public who are not licensed under article 6573a. The individual in question would clearly be excluded from this category. We believe that section 5(c) should be read to permit the appointment to the Commission of a person who is both a licensed real estate broker and who conducts a school which is accredited by the Commission and which offers a course in real estate brokerage within its academic program.

Yours very truly,

  
Rick Gilpin  
Chairman  
Opinion Committee

APPROVED: Sarah Woelk, Chief  
Letter Opinion Section

RG/SW/lcd

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